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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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MELTON SMITH,

Case No. 1:22-cv-00494-JLT-CDB

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Plaintiff,

ORDER DENYING WITHOUT PREJUDICE  
STIPULATED REQUEST TO MODIFY THE  
SCHEDULING ORDER AS AMENDED

12

v.

(Doc. 28)

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CITY OF BAKERSFIELD, *et al.*

Defendants.

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On February 7, 2022, Plaintiff Melton Smith (“Plaintiff”) initiated this action against Defendants in Kern County Superior Court. (Doc. 2). Defendant County of Kern removed this action to this Court on April 26, 2022. *Id.* On July 6, 2022, the Court issued a scheduling order in this matter. (Doc. 21).

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Pending before the Court is the parties’ stipulated request to modify the scheduling order, supported by the declaration of counsel for Plaintiff. (Doc. 28). Plaintiff represents that since August 2022, Plaintiff’s counsel has been experiencing health problems which has impacted the parties’ ability to conduct discovery in this action. *Id.* at 2. Plaintiff’s counsel also declares that in connection with discovery duties in this case, he is required to coordinate with Plaintiff’s counsel for a criminal matter, which is complicated by Plaintiff’s housing in custody. *Id.* at 3. Plaintiff’s counsel also represents that his ability to engage in discovery in this case has been impacted by his trials and work in other, unrelated cases. *Id.* at 2-3.

1       In their stipulated request, the parties seek an approximately five-month extension of all  
2 remaining discovery dates, a three-month extension of the deadline for filing dispositive motions,  
3 a two-month continuance of the pretrial conference, and no change to the scheduled trial date of  
4 June 3, 2024. *Id.* at 3-4.

5       In light of the representations of Plaintiff's counsel, an extension of the case management  
6 dates undoubtedly is warranted. However, the parties' request for generous extensions of  
7 discovery dates without in-kind extensions for motion filing and trial dates unreasonably impacts  
8 the Court by shortening its time to consider and resolve motions and prepare for trial. The Court  
9 is not amenable to granting extensions of time along the lines the parties propose without an in-  
10 kind extension of the pretrial conference and trial dates.

11       Further, while counsel for Plaintiff attests that the parties have undertaken some written  
12 discovery, there is no indication that any depositions have occurred and counsel's declaration  
13 suggests a significant number of depositions remain. (Doc. 28-2 at 5). The Court presently does  
14 not have sufficient information before it to determine (1) what specific discovery each party has  
15 undertaken, (2) what specific discovery remains for each party (including how many depositions  
16 remain to be completed), and (3) what if any depositions have been noticed and/or confirmed  
17 scheduled. Accordingly, the Court shall direct the parties to submit in support of any renewed  
18 stipulated request for extension of case management dates a discovery timeline based on  
19 meet/confer conferences during which the parties tentatively agree upon discovery completion  
20 milestones.

21       Accordingly, IT IS HEREBY ORDERED:

- 22       1. The stipulated request to modify the scheduling order (Doc. 28) is DENIED WITHOUT  
23 PREJUDICE to the parties' filing of a renewed, stipulated request consistent with the  
24 directions set forth herein;
- 25       2. Any renewed, stipulated request for modification of the scheduling order SHALL BE  
26 FILED within seven days of entry of this order;
- 27       3. In connection with the filing of any renewed, stipulated request for extension of case  
28 management dates, the parties SHALL MEET/CONFER and identify in their renewed

1 filing (1) what specific discovery each party has undertaken, (2) what specific discovery  
2 remains for each party (including how many depositions remain to be completed), and (3)  
3 what if any depositions have been noticed and/or confirmed scheduled; and

4 4. The parties additionally SHALL IDENTIFY in any renewed filing the witnesses  
5 remaining to be deposed. For each such witness, counsel shall certify in the renewed  
6 filing that they (1) have contacted the witness, and (2) confirmed a date for proceeding  
7 with the deposition of that witness within the timeframe proposed by the parties for the  
8 extension of nonexpert discovery.

9 IT IS SO ORDERED.

10 Dated: August 10, 2023

  
11 UNITED STATES MAGISTRATE JUDGE

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